

*James Antonini*

*McGowan v Stutesman, et al.*

*June 13th, 2018*



CC REPORTING AND VIDEOCONFERENCING  
172 East 8th Ave  
Eugene, OR 97401  
541-485-0111  
[www.ccreporting.com](http://www.ccreporting.com)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

RONDA MCGOWAN, Personal )  
Representative for Estate of )  
Brian Babb, LEE BABB, CONNOR )  
BABB, by and through Guardian )  
ad litem, STEPHANIE WOODCOOK, )  
KAYLEE BABB, )  
 )  
Plaintiffs, )  
v. ) No. 6:17-cv-00424-TC  
 )  
WILL STUTESMAN, OFFICER GROSE, )  
OFFICER PIESKE, SGT. MCALPINE, )  
CITY OF EUGENE, a municipal )  
subdivision of the State of )  
Oregon, JANE DOE CALL TAKER, )  
John and Jane Does 1-10, )  
 )  
Defendants. )

DEPOSITION OF JAMES ANTONINI

June 13, 2018

Wednesday

11:25 A.M.

THE DEPOSITION OF JAMES ANTONINI was taken  
at CC Reporting & Videoconferencing, 172 East 8th  
Avenue, Eugene, Oregon, before Christine Oljace,  
CSR, RPR, CRC, Certified Shorthand Reporter in and  
for the State of Oregon.

APPEARANCES

For the Plaintiffs:

MS. MICHELLE R. BURROWS  
420 SW Washington, Suite 300  
Portland, Oregon 97204  
503/241-1955  
michelle.r.burrows@gmail.com

For the Defendants:

ROBERT FRANZ, JR. LAW OFFICES  
730 B Street  
Springfield, Oregon 97477-4720  
541/741-8220  
BY: MR. ROBERT FRANZ, JR.  
rfranz@franzlaw.comcastbiz.net

Also Present:

STEPHANIE WOODCOOK

JAMIE IBOA

Reported by:

CHRISTINE OLJACE, CSR-RPR  
CC REPORTING & VIDEOCONFERENCING  
EUGENE 541/485-0111

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

WITNESS.....PAGE

JAMES ANTONINI

BY MR. FRANZ 4

BY MS. BURROWS 28

EXHIBITS: NONE

1 JAMES ANTONINI,  
2 having been first duly sworn to testify the truth,  
3 the whole truth, and nothing but the truth, was  
4 examined and testified as follows:

5  
6 EXAMINATION

7 BY MR. FRANZ:

8 Q. For the record, will you please state your  
9 full name?

10 A. James Robert Antonini.

11 Q. Mr. Antonini, have you ever had your  
12 deposition taken before where you have had a court  
13 reporter?

14 A. No court reporter.

15 Q. Okay. What we are going to do here is you  
16 are under oath to tell the truth, so we are going to  
17 ask you some questions about your relationship with  
18 Mr. Babb and that day of the incident.

19 The court reporter will take down each  
20 question and each answer. It will then be  
21 transcribed in a booklet, 8 1/2 by 11. When the  
22 deposition is over, you have a chance to read the  
23 transcript and then make any corrections. At the  
24 end of the deposition there will be a -- there will  
25 be a page, a correction page.

1 A. Uh-huh.

2 Q. So we are going to mail that deposition to  
3 you with a correction page. So if you said the word  
4 "to" and the court reporter wrote down t-o but you  
5 meant t-w-o, you would just make that change on the  
6 back of the page. When you get the deposition sent  
7 to you, go ahead and keep the deposition. I will  
8 furnish that copy to you. But the correction page,  
9 if there are any corrections, send it back to the  
10 court reporter. If there are no corrections, just  
11 sign the page there is no corrections, and send it  
12 back to the court reporter.

13 So what address can she mail the  
14 deposition to?

15 A. 195 East Anchor, Santa Clara, 97404.

16 Q. Is that your current residence?

17 A. Yes, sir.

18 Q. Back in 2015, prior to the death of  
19 Mr. Babb, what was your cell phone number?

20 A. Same as it is now.

21 Q. Okay. And what is that?

22 A. (503)449-3218.

23 Q. Okay. Could you tell us a little bit  
24 about -- just a brief background so we kind of know  
25 who you are? High school graduate?

1 A. Yes.

2 Q. From where?

3 A. Churchill.

4 Q. Okay. And then what did you do after high  
5 school?

6 A. Navy. And then -- how much detail do you  
7 want?

8 Q. Yeah. I will step you through it.

9 Where were you in the -- did you go right  
10 from high school to the Navy?

11 A. I did. I got hurt, though, and so I came  
12 out early as a medical discharge.

13 Q. Okay. So did you go right out of high  
14 school?

15 A. Yes.

16 Q. Where were you stationed?

17 A. Florida.

18 Q. How long were you in?

19 A. A year and a half.

20 Q. Okay. And then -- okay. After your  
21 discharge, generally speaking -- how old are you  
22 now?

23 A. 47.

24 Q. Okay. So generally speaking -- well, what  
25 do you do now for a living?

1 A. Work for Veteran Affairs.

2 Q. And when you were living with Mr. Babb,  
3 you had a construction company?

4 A. Yes, sir.

5 Q. So just between Navy -- real brief, was it  
6 just construction work --

7 A. No.

8 Q. -- off and on?

9 A. I worked for UPS for eight years in  
10 management. Then started construction.

11 Q. Okay. So UPS, the delivery?

12 A. Yes.

13 Q. Is it true if they break a mirror they get  
14 fired?

15 A. Not that I am aware of.

16 Q. I heard that if the driver breaks a  
17 mirror, he gets fired.

18 MR. FRANZ: Have you ever heard that?

19 MS. IBOA: No.

20 BY MR. FRANZ:

21 Q. So that is not true?

22 A. Not to my knowledge.

23 Q. Did you ever have to be a driver?

24 A. No, sir.

25 Q. Okay. So UPS management. And anything



1 else of significance?

2 A. Nothing of significance.

3 Q. Okay. So then when did you first meet  
4 Mr. Babb, Brian Babb?

5 A. I think my first acquaintance with him was  
6 probably in I would say the '90s, like maybe early  
7 '90s, mid '90s.

8 Q. And so how did you happen to meet him?

9 A. Construction. I did just a short stint of  
10 just -- he worked for Morse Brothers and I worked  
11 for Morse Brothers -- or he was associated with  
12 Morse Brothers, and that is where we became  
13 acquainted.

14 Q. Now, is he any relationship to the  
15 other -- what is it? Eugene Sand & Gravel?

16 MR. FRANZ: What is the Babb family?

17 MS. WOODCOOK: Delta Sand & Gravel.

18 BY MR. FRANZ:

19 Q. So did you ever work for Delta Sand &  
20 Gravel?

21 A. No, sir.

22 Q. Okay. So then after you first met him,  
23 what -- when did you first move in with him?

24 A. Well, it was many years later. I think it  
25 was in two thousand -- I don't know exactly, but I

1 am going to guess it was probably two thousand --  
2 two thousand -- well, he was -- probably 2013 maybe,  
3 '12.

4 Q. Okay. And had you known -- how good --  
5 how would you describe your relationship prior to  
6 moving in with him for that?

7 A. Just spotty, off and on. We just always  
8 had a lot of things in common, so we just had kind  
9 of some connections.

10 Q. Then how was it you moved in with him?

11 A. We reacquainted. And I was, I think, in  
12 the process of moving to Eugene from Portland, and  
13 it just worked out that I stayed with him for a  
14 while. And then it just turned into a couple years,  
15 I think.

16 Q. And was that the same house -- what is the  
17 address of the house that you lived with him?

18 A. Devos. I can't remember the number.

19 Q. No. That is fine.

20 And then did you always have the same  
21 bedroom?

22 A. I had my own bedroom, yeah.

23 Q. Yeah, but at the same location?

24 A. Yes, sir.

25 Q. So I am not good at north and south, but

1 if I am standing at the front door of the house,  
2 what bedroom did you have?

3 A. It would be on the south side.

4 Q. So is that left-hand side?

5 A. Yes, sir.

6 Q. And the door -- I can picture the door.

7 Is there a bed -- is your bedroom right above the  
8 door or a little bit to the left as I'm facing the  
9 door?

10 A. It would be to the south.

11 Q. A little bit to the left?

12 A. Yes, sir.

13 Q. And then where was the bedroom of Brian  
14 Babb?

15 A. To the north.

16 Q. Same side of the house? Front side of the  
17 house?

18 A. No. Same side, north and south side of  
19 the east side.

20 Q. So was his -- how many bedrooms were in  
21 the house?

22 A. Let's see. One, two, three.

23 Q. Are the bedrooms all upstairs?

24 A. Yes, sir.

25 Q. Okay. So when you moved in, you said you

1 thought it was 2013?

2 A. Roughly. Maybe '14. I can't -- I  
3 honestly can't recall --

4 Q. Okay.

5 A. -- exact.

6 Q. And maybe fast forward to just the last  
7 three months. So what -- these questions are going  
8 to be towards January, February, March of 2015.

9 A. Uh-huh.

10 Q. What was your usual routine?

11 A. I worked a lot. I get up early and come  
12 home around 4:00 or 5:00 probably. It just depends  
13 on the day. I was self-employed at the time.

14 Q. In construction?

15 A. Yes, sir.

16 Q. And when you say you got up early, like  
17 what?

18 A. Oh, 6:00 maybe, between 6:00 and 7:00.  
19 That is early to me.

20 Q. Okay. And then you would get home at  
21 4:00?

22 A. Roughly. It varied.

23 Q. And then would you pretty much stay -- did  
24 you eat out a lot? Did you cook in food-wise?

25 A. No. I ate out a lot. I didn't use the

1 kitchen, very seldom.

2 Q. Okay. And do you know what Brian Babb's  
3 routine was?

4 A. Can you be more specific?

5 Q. Yeah. Like would he be up when you got  
6 up?

7 A. Usually, yeah.

8 Q. What would he be doing?

9 A. Well, I mean, he would -- it just depended  
10 on the day. Sometimes he would go to work with me.  
11 Sometimes he would stay home, and I am not sure what  
12 his daily routine was when I wasn't with him.

13 Q. Did you observe him drinking alcohol every  
14 day?

15 A. No.

16 Q. For the last -- how often for that -- from  
17 January, February, March 2015, how often would he  
18 drink alcohol?

19 A. I guess about every day.

20 Q. Okay.

21 A. Yeah.

22 Q. And how much would he drink that you know  
23 of?

24 A. I can't give you an accurate amount, to be  
25 honest with you.

1 Q. How much would you see him drink?

2 A. He hid it pretty well, so I can't really  
3 give you a fair -- a fair estimate of -- I mean, I  
4 don't think it is fair for me to comment on that,  
5 because I don't really know. I mean, from 5 to 20  
6 beers a day maybe. I -- you know, I would say it  
7 was somewhere in that range.

8 Q. Where would he purchase the beer?

9 A. At the store.

10 Q. Do you know what store?

11 A. Dari Mart.

12 Q. And because I am not familiar with that  
13 side of town --

14 A. Okay.

15 Q. -- where would that Dari Mart be located?

16 A. It is about a mile and a half from the  
17 residence, if that.

18 Q. And do you know -- would you ever purchase  
19 beer for him?

20 A. No.

21 Q. Did you ever go with him when he purchased  
22 beer?

23 A. Sure.

24 Q. Would he use a credit card or cash?

25 A. I -- honestly, I can't remember. I mean,

1 it probably varied. I would say -- you know, I have  
2 no idea, honestly.

3 Q. Okay.

4 A. Sorry.

5 Q. No. I was just trying --

6 A. I understand.

7 Q. So what about medication? Did he take  
8 medication those last three months, January,  
9 February, March 2015?

10 A. Medication as far as --

11 Q. Any medication that you know of.

12 A. Yes.

13 Q. What medications did he take?

14 A. Oh, man. I have no -- I mean, I -- I am  
15 not his doctor, so I don't know exactly. But, I  
16 mean, I am assuming it was -- I am not going to  
17 assume, but I -- I don't know.

18 Q. So you prepared his medication for him,  
19 though, didn't you? Did you get his -- put the --  
20 get his medication --

21 A. At times.

22 Q. -- and put it in pill boxes?

23 A. Yes, sir.

24 Q. So what medication -- when you say you  
25 have a pill box, first of all, was it like -- the

1 pill boxes I have seen, they are like a long  
2 rectangle and they have a day, and then you put  
3 medication for each day?

4 A. Yes, sir.

5 Q. Is that the same type?

6 A. Basically.

7 Q. So what would you put in for like a  
8 Monday?

9 A. I don't remember the pharmaceutical names,  
10 but I am assuming they were blood pressure  
11 medicines. I know he took some anxiety medicine  
12 maybe. I don't really -- I can't comment on that,  
13 because I don't know exactly what the medicines  
14 were. I don't know exactly what they were, what  
15 they were treating him for, but I do know that he  
16 took medication.

17 Q. And could you tell when he was on and off  
18 medications?

19 A. Yeah.

20 Q. And how could you tell?

21 A. Just -- I don't know. Just demeanor  
22 maybe, mood.

23 Q. All right. So take me through the day of  
24 the incident. What time did you come home?

25 A. It is really hard for me to talk about my



1 buddy. And then, you know, I am not going to go  
2 down a road where I am going to, like, diminish his,  
3 you know -- or say anything bad about him, so if  
4 that is what I need to do, it is not going to  
5 happen.

6 Q. So you are going to refuse -- so let's  
7 just get this --

8 A. Yeah.

9 Q. -- get it straight.

10 So you are going to refuse to answer any  
11 of my questions that reflect bad on Mr. Babb?

12 A. I am not going to refuse, but I am only  
13 going to give you the facts that I know, that I  
14 recall. I am not going to say if it is reflecting  
15 bad or good on him. But I am just saying I am not  
16 going to speculate.

17 Q. I don't think I am asking you to  
18 speculate.

19 A. Okay. All right.

20 Q. I am going to ask fact questions --

21 A. Okay.

22 Q. -- but if the factual question I ask you  
23 reflects bad on him, are you going to answer it?

24 MS. BURROWS: Well, that is an  
25 objectionable question.

1 MR. FRANZ: Well, I need to know  
2 whether he is going to answer my questions or not.

3 MS. BURROWS: Well --

4 THE WITNESS: If I don't answer them,  
5 can I go home?

6 BY MR. FRANZ:

7 Q. If you don't answer them, I can't stop you  
8 from going home.

9 A. Okay.

10 Q. I can only get a court order to make you  
11 answer them. You are not in jail. I don't have the  
12 power to arrest you. You don't have an attorney  
13 so --

14 A. Okay.

15 Q. I mean, if you want to, you can get up  
16 and --

17 A. I am not trying to be an asshole about it.  
18 I'm just -- it puts me in a really bad spot. I am  
19 not okay with --

20 MS. BURROWS: Maybe, Mr. Antonini, you  
21 could let Mr. Franz ask his questions.

22 THE WITNESS: Yeah. Go ahead and ask  
23 the questions.

24 MS. BURROWS: And each question we  
25 will assess individually.

1 THE WITNESS: Okay.

2 BY MR. FRANZ:

3 Q. Okay. And if you are not giving me the  
4 whole truth, will you tell me you are not?

5 A. Absolutely. 100 percent.

6 Q. I mean, if you give me the truth --

7 A. I am not going to say anything but the  
8 truth.

9 Q. Okay. So tell me, what time did you get  
10 home?

11 A. I am sorry. What?

12 Q. What time did you get home on the day of  
13 the incident?

14 A. On the day of the incident, I believe it  
15 was between 4:00 and 4:30, in that area.

16 Q. And what did you do?

17 A. I went directly to my bedroom.

18 Q. Okay. And what did you do in your  
19 bedroom?

20 A. I was on my computer just doing some  
21 bills, some invoicing for the day's work, I believe.

22 Q. And did you shut the bedroom door?

23 A. Yes, sir.

24 Q. Did you lock it?

25 A. I think I did, if I recall.

1 Q. Why would you lock the door?

2 A. Privacy.

3 Q. From whom?

4 A. Well, I mean, there was kids and Brian --  
5 not necessarily Brian. Brian was good about  
6 knocking. He never would come in my room without  
7 knocking, but there was kids, and his kids were  
8 there and -- just privacy.

9 Q. So -- and I am talking about March 30th,  
10 2015.

11 A. Yes, sir.

12 Q. His kids were there that day?

13 A. No, sir.

14 Q. Okay. So --

15 A. I see where you are going on this. I just  
16 lock the door.

17 Q. I am just wondering why you locked the  
18 door. It is not a trick question.

19 A. If I tell you I didn't lock the door,  
20 would that make you feel better?

21 Q. I just want to know the truth.

22 A. I locked the door.

23 Q. I don't want you to make me feel good.

24 A. Okay. Good.

25 Q. Just factually --

1 A. I locked the door.

2 Q. Okay. And why did you lock the door? Is  
3 your answer privacy?

4 A. Yeah. That is a -- yeah.

5 Q. I will accept that.

6 A. Yeah, privacy.

7 Q. All right. And then what happened?

8 A. I recall I was in my bedroom, and I heard  
9 the hailing of the police department in the front of  
10 the house. At that point I hadn't had any contact  
11 with Brian, I don't believe, that day. Maybe a  
12 brief "good morning." I can't recall. But when I  
13 came home I went to my bedroom, and Brian was in his  
14 bedroom.

15 I heard the hailing, and I didn't know  
16 what was going on, so I, you know, looked out the  
17 window. I saw the police. I came out of my  
18 bedroom, and at the same time I came out of my  
19 bedroom, Brian came out of his bedroom.

20 We went downstairs. I was -- just recall  
21 asking Brian what was going on, you know. I mean,  
22 my first initial thought was that he had, like, I  
23 don't know, robbed a bank or got in a fight or  
24 something, and the police were here to get him. You  
25 know, I had no idea what was going on at that point.

1 I was completely clueless. And then I just went out  
2 the front door to try to figure out what was going  
3 on.

4 And I remember -- how much detail do you  
5 want?

6 Q. I want --

7 A. As much as I can recall?

8 Q. Yes.

9 A. Okay. So I remember coming out the front  
10 door, and I remember there being police officers on  
11 the roofline of the two houses to the north and  
12 south. And I remember -- I didn't see the gentleman  
13 in the turret. I just remember coming out of the  
14 house with my hands up. They thought I was Brian  
15 Babb. I explained to them I am not Brian Babb. You  
16 know, I had no idea at that point still what was  
17 going on.

18 I proceeded to the back of the -- is it  
19 called a BearCat? I assume that is what they called  
20 it, if I am using it correctly, the BearCat. And I  
21 explained to -- if I remember correctly, the  
22 officers were asking me questions about where Brian  
23 was in the residence, what his demeanor was.

24 And I recall saying that he was upset, he  
25 was agitated. I did tell the police officers that

1 he was at his gun safe. I did let them know that he  
2 had weapons, because he -- when I was exiting the  
3 residence, he was attempting to get into the gun  
4 safe.

5 So I -- they had me in the back of the  
6 BearCat. And then I kept asking the officer to  
7 contact him on the phone so I could speak to him. A  
8 few minutes went by -- maybe not even minutes, maybe  
9 seconds. It seemed like a long time. And then I  
10 heard a gunshot, and the officers from the back of  
11 the Humvee said, "Brian has fired a round."

12 I replied -- I knew that Brian -- what his  
13 weapon was, and I knew that the sound of the gun was  
14 not reflective of what his weapon was. It wasn't  
15 the same caliber gun that was shot. We hunt and  
16 fish together a lot, so this is my thing.

17 So a couple seconds went by, and then the  
18 officer in the turret came out of the turret. He  
19 said, "I just shot. It was me that shot." I can't  
20 remember his exact verbiage. I am like -- he is  
21 like, "I shot him. It was me."

22 And I remember just feeling like -- it was  
23 so odd, the whole situation, about how no one had  
24 known that the officer in the turret had shot the  
25 round. And here I am just giving my own opinion.

1 But anyway, it is irrelevant.

2 And then, I mean, there were some things  
3 that happened in between there, but then the BearCat  
4 proceeded to move forward onto the -- you know,  
5 approaching the area where Brian was shot. And then  
6 from there, they took me out of the turret, took me  
7 to the squad car, and detained me for like three  
8 hours until they got things settled down.

9 Q. Now, when you left, where did you go that  
10 night after you -- I take it you did not stay at the  
11 house.

12 A. No. There was blood everywhere.

13 Q. Where did you go that night?

14 A. I went to a friend's house.

15 Q. Okay. Now, you said that the police were  
16 hailing you out. I take it you mean they were  
17 giving commands.

18 A. Not hailing me. They were hailing Brian.

19 Q. Okay. What were they saying?

20 A. Oh, they were calling Brian's name. "Come  
21 out." I can't remember the exact verbiage, but it  
22 was "Brian Babb, please come out. Please" -- you  
23 know, "Please exit the residence." That was the  
24 verbiage I remember.

25 Q. Okay. And so you said that you came out



1 of the bedroom, and then Brian came out of his  
2 bedroom. And I haven't been in the bedrooms. Do  
3 the bedrooms meet at a staircase, or do you have to  
4 walk somewhere? How do you get downstairs from your  
5 bedroom?

6 A. It is basically a landing on the second  
7 floor, and you have to meet in the middle in order  
8 to go downstairs.

9 Q. Okay. And so was he in front of you or  
10 behind you when you went down the stairs?

11 A. He was to the side, and then he kind of  
12 rushed down me -- in front of me, and then he got  
13 down to the -- he went down to the gun safe. And  
14 then I am coming down the stairs, and I just  
15 proceeded out the front door.

16 Well, actually, excuse me. I did not. I  
17 went over to the gun safe and tried to pull him off  
18 the gun safe. And then he -- it didn't work, so  
19 that is when I proceeded to the front door.

20 Q. How -- how -- you look pretty stocky.  
21 What is your height and weight?

22 A. Five eleven, 260.

23 Q. And about the same in 2015?

24 A. A little lighter, but yeah, roughly.

25 Q. Do you lift weights? Any special training

1 for strength?

2 A. I did weight train. Not anymore.

3 Q. Okay. And then what was the size of Brian  
4 Babb in 2015?

5 A. I would say he was five nine, 180 maybe.  
6 180.

7 Q. Okay.

8 A. Maybe 200. I don't know. I can't answer  
9 that question accurately.

10 Q. Yeah. And she really can't help you  
11 but --

12 A. He was stocky, though. He was a tough --  
13 tough.

14 Q. When you say you tried to pull him off,  
15 can you describe what you tried to do?

16 A. I just grabbed his shoulder and tried to  
17 pull him off like this, and then he just hit my hand  
18 off like this and then started dialing the safe  
19 again.

20 Q. Okay. So can you -- we don't have a  
21 camera. Can you physically depict what you just  
22 showed me? You took your left hand.

23 A. Yeah. So he was at the safe, and then --  
24 I understand. He was at the safe. I walked up to  
25 him. He was throwing the dial on the safe. I was

1 asking him what was going on, and he just kept  
2 saying, "Tell them to get the fuck off my property.  
3 Tell them to get the fuck off my property."

4 I couldn't talk to him, couldn't converse.  
5 So I tried to grab him, and I was like, "Brian just  
6 calm down. Let's go out and talk to them."

7 Q. Okay. Describe that.

8 A. I tried to grab him with the left hand to  
9 pull him back.

10 Q. And you grabbed him on that --

11 A. On the shoulder. I don't even know if it  
12 was a grab. It was more of a pull.

13 Q. So it would have been his left shoulder?

14 A. It would have been his right shoulder.

15 Q. Oh, he is facing you?

16 A. No. He is facing the safe.

17 Q. Okay. So I am facing the safe. You are  
18 behind me?

19 A. Yes, sir.

20 Q. So you are grabbing his right shoulder?

21 A. Yes, sir.

22 Q. All right. And he -- oh, okay. So then  
23 he just flips up his right hand?

24 A. Exactly.

25 Q. Okay. And he said, "Tell them to get the

1 fuck off my property." Anything else?

2 A. I can't remember. Just that is -- that is  
3 all I remember.

4 Q. Did he say, "I am really pissed"?

5 A. No, he did not.

6 Q. Okay. And then did you say anything else  
7 then?

8 A. I knew I wasn't -- no, I didn't. I went  
9 to the front door.

10 Q. Okay. And then when is the last time you  
11 saw him doing something?

12 A. The last time I saw him was when they  
13 were -- that is the last time I saw him.

14 Q. When you walked through the door, you  
15 didn't take one look back to see what he was doing?

16 A. Huh-uh.

17 Q. No? You have to answer out loud.

18 A. I did not. I did not. Sorry. No, I did  
19 not.

20 Q. Yeah.

21 A. I was more focused on the officers in the  
22 front of the house because they had me pinned down,  
23 so I was more worried about myself at that point.

24 Q. So how did you open the door? I mean, did  
25 you open the door and then just like -- I don't want

1 to -- put your hands out or something?

2 A. If I recall, I just opened the door, went  
3 to the front porch, had my hands in the air. And  
4 they kept saying I was Brian Babb. I was like "I'm  
5 not Brian Babb." And I just proceeded to walk  
6 towards the BearCat, trying to explain to them, you  
7 know, that I wasn't who they thought I was.

8 Q. Okay. I noticed you have a beard today.  
9 Did you have a beard back then?

10 A. I don't believe so. No, sir.

11 MR. FRANZ: Okay. Okay. Let me take  
12 a break a second.

13 (Recess: 11:48 to 11:52 a.m.)

14 MR. FRANZ: I have no more questions.

15 THE WITNESS: Thank you.

16 MR. FRANZ: I am switching because she  
17 needs to be close to the conversation.

18 THE WITNESS: No problem. Thank you.

19

20 EXAMINATION

21 BY MS. BURROWS:

22 Q. Mr. Antonini, I am Michelle Burrows. I am  
23 an attorney. I represent Brian Babb's estate in  
24 this federal lawsuit.

25 Mr. Antonini, I do just want to ask you a

1 few clarifying questions based on your testimony to  
2 Mr. Franz.

3           You and I have never met before. Is that  
4 correct?

5           A.     Correct.

6           Q.     Okay. You testified that you came home  
7 from work that day somewhere between 4:00 and 4:30.  
8 Is that true?

9           A.     Yes, ma'am.

10          Q.     Do you remember if you saw Brian when you  
11 first got home?

12          A.     I did not.

13          Q.     Do you know where he -- could you hear him  
14 talking on a phone or doing anything at that time?

15          A.     No, ma'am.

16          Q.     Was his door to his room closed?

17          A.     Yes, ma'am.

18          Q.     Did you assume that he was in his room?

19          A.     I did.

20          Q.     Okay. Was there a landline at that house?

21          A.     No, ma'am.

22          Q.     Just -- so you had your own cell phone?

23          A.     (Nods head.)

24          Q.     Is that correct?

25          A.     Yes, ma'am.

1 Q. And Brian, when he called, would use a  
2 cell phone?

3 A. Yes, ma'am.

4 Q. Did he just have one cell phone that he  
5 used?

6 A. To my knowledge.

7 Q. Okay. All right. Did you -- did he have  
8 internet service at the house?

9 A. Yes, ma'am.

10 Q. Okay. And you said that you were on the  
11 computer doing billing and stuff, so were you using  
12 that internet service?

13 A. I believe I was, yes.

14 Q. Okay. I guess my point was you didn't  
15 have your own subscription?

16 A. I did, but I think on that particular day  
17 I was using his internet.

18 Q. Okay. About how long had you been home  
19 when you heard the hailing from the police officers?

20 A. I can't recall exactly, but I would say  
21 within 30 minutes of me being home.

22 Q. And I know this sounds like a really  
23 stupid question, but just bear with me --

24 A. Okay.

25 Q. -- because I have to think about a few

1 things that are coming up in the lawsuit.

2 A. That is okay.

3 Q. Did you see any police officers parked on  
4 the street when you came home?

5 A. No, ma'am.

6 Q. Did you see any police officers walking  
7 around the neighborhood when you came home?

8 A. No, ma'am.

9 Q. Did you see any kind of what looked like a  
10 command-type police vehicle anywhere near the  
11 neighborhood?

12 A. No, ma'am.

13 Q. What route did you come in to the house  
14 from?

15 A. Barger to Devos.

16 Q. Okay.

17 A. So Barger west to Devos north.

18 Q. Okay. Did you know the neighbors around  
19 Brian's house at all?

20 A. Just -- not personally, just hi.

21 Q. To say hi to?

22 A. Yes, ma'am.

23 Q. They knew who you were?

24 A. You mean -- what do you mean?

25 Q. Like they knew you were not a stranger and



1 that you had the right --

2 A. I would assume that the neighbors knew  
3 that I was a resident.

4 Q. Okay. When you say that the officers were  
5 hailing -- and that is the word you have used -- how  
6 were they doing that? On the loud speaker?

7 A. Yes, ma'am.

8 Q. Could you -- did you look out your bedroom  
9 window when you heard the hailing?

10 A. Yes, ma'am.

11 Q. What could you see from your window at  
12 that point?

13 A. The BearCat.

14 Q. Did you see any other officers anywhere?

15 A. No, ma'am.

16 Q. Could you see the officers on the rooftops  
17 that you talked about earlier?

18 A. No, ma'am.

19 Q. Okay. Could you see -- so I have been in  
20 your bedroom and I have been in the house. So when  
21 you said that you could see the BearCat, where was  
22 it parked when you first saw it?

23 A. It was parked at the -- at the entrance of  
24 the driveway.

25 Q. Of the driveway to Brian's house or the

1 neighbor's driveway?

2 A. It was in the neighbor's.

3 Q. Okay. And --

4 A. Actually, I retract that.

5 Q. Go ahead.

6 A. I don't -- I don't recall exactly. I  
7 honestly don't recall exactly where it was staged.  
8 I just know that it was at the approach of the  
9 driveway on the street side of Devos.

10 Q. Okay. Now, I have deposed virtually all  
11 of the officers who responded that day or --

12 A. I am sorry?

13 Q. Pardon?

14 A. What was the word you said?

15 Q. Deposed. I have questioned them as I am  
16 questioning you now.

17 Some of the officers testified that they  
18 were outside of the vehicle.

19 A. They were.

20 Q. How many could you see outside of the  
21 vehicle?

22 A. So not to confuse things, when I first saw  
23 the BearCat out of my window, all I saw was the  
24 BearCat.

25 Q. Okay.

1           A.       I did not see the other officers until I  
2 exited the residence.

3           Q.       Okay. Fair enough.

4                    Did you see any other patrol cars on the  
5 street when you first looked out the window?

6           A.       When I looked out the window, it was  
7 really brief. It was just like a split second, and  
8 I knew there was a problem. That is when I  
9 proceeded to go downstairs.

10          Q.       It would be a problem if cops are suddenly  
11 hailing your house.

12          A.       It was unnerving, yes.

13          Q.       What did they -- what were they saying?

14          A.       I recall them hailing Brian Babb  
15 specifically. I don't recall the verbiage that was  
16 specifically used.

17          Q.       Up to that point -- and I am talking about  
18 the point when you looked out the window -- could  
19 you hear Brian yelling anything?

20          A.       No, ma'am.

21          Q.       And again, this is kind of a background  
22 silly question. Normally -- you lived with him for  
23 about two years at that point. Is that fair?

24          A.       Yes.

25          Q.       Had Brian ever -- had you ever been able

1 to hear Brian when he was speaking loudly or yelling  
2 in the house prior to that date?

3 A. No.

4 Q. Okay. Then I think you told Mr. Franz  
5 that you left your bedroom after you verified the  
6 BearCat outside. Is that correct?

7 A. Yes, ma'am.

8 Q. And you said that Mr. Babb was coming out  
9 of his bedroom. Is that correct?

10 A. Yes, ma'am.

11 Q. Was Mr. Babb carrying a weapon at that  
12 time?

13 A. No, ma'am.

14 Q. And you said that Brian rushed down the  
15 staircase in front of you?

16 A. He was in front of me, yes, ma'am.

17 Q. Okay. Did you and he have any  
18 conversation before you went downstairs about what  
19 was going on?

20 A. One-sided. I was -- just kept asking what  
21 was going on, and he didn't reply.

22 Q. He didn't say anything at all?

23 A. Well, yeah. He said, "Get them the fuck  
24 off my property."

25 Q. Okay. All right. Okay. Then had you

1 known about anything that had happened up to that  
2 point about what might have brought the police  
3 there?

4 A. No, ma'am.

5 Q. Then I think you talked to Mr. Franz that  
6 you and Mr. Babb were at the gun safe for a period  
7 of time. Was Brian having some difficulty opening  
8 the safe?

9 A. Yep.

10 Q. Were there any weapons out that you could  
11 see at that point?

12 A. No, ma'am.

13 Q. Did -- do you know how many weapons Brian  
14 did have?

15 A. I could guess. I know what weapons he  
16 had --

17 Q. No guesses.

18 A. Yeah. I could guess what weapons -- I  
19 know what weapons -- I mean, I know he always kept  
20 his weapons locked up except for his handgun.

21 Q. Where did he keep his handgun?

22 A. In his bedroom, I believe. In his  
23 bedroom.

24 Q. Yeah. Yeah. Yeah. I am remembering your  
25 testimony, and the crime scene pictures is what I am

1     trying to visualize right now.

2                 So after that exchange with Mr. Babb at  
3     his gun safe, you immediately then left the house?

4             A.     That's correct.

5             Q.     Okay.   Okay.   And were you afraid for your  
6     own safety?

7             A.     Yeah.

8             Q.     From whom?

9             A.     Everybody.

10            Q.     Okay.

11            A.     I didn't know what was going to happen.

12            Q.     Have you seen Brian agitated like that  
13     previously?

14            A.     Not that agitated.

15            Q.     Okay.   Did you ever get a sense no matter  
16     how -- whatever Brian said or did, did you ever get  
17     a sense of what he thought was going on from things  
18     he was saying, his emotions?   Did he blurt out  
19     anything --

20            A.     No.

21            Q.     -- that gave you any insight?

22            A.     No.   No.

23            Q.     Was he on the phone at all?

24            A.     Not when he exited the bedroom.   I don't  
25     ever recall him having his phone with him.

1 Q. Did you see it downstairs?

2 A. No, ma'am.

3 Q. Did you ever see him get on the phone?

4 A. He didn't have the phone with him when he  
5 exited the bedroom.

6 Q. Okay. And you don't know where it was?

7 A. No, ma'am.

8 Q. Okay. Did you know about an incident  
9 before the day of the shooting in which Brian may  
10 have accidentally or intentionally fired a round in  
11 the house?

12 A. It was under my -- it was my understanding  
13 that it was the day of the incident.

14 Q. But you don't know?

15 A. I didn't speak to Brian Babb that day.

16 Q. Okay. So you have talked about when you  
17 went out on the porch, and my memory is that there  
18 is a small step down from the door to the porch.  
19 Correct?

20 A. Yes, ma'am.

21 Q. And there is a couple of columns on either  
22 side of the door. Is that correct?

23 A. Yes, ma'am.

24 Q. And you could -- could you still see the  
25 BearCat in front of you?

1           A.       I don't recall seeing the BearCat in front  
2 of me. I recall seeing the officers on the roofs to  
3 the right and the left.

4           Q.       These two houses right here?

5           A.       Yes, ma'am.

6           Q.       How were the officers positioned?

7           A.       Can you define -- where were they located?

8           Q.       Were they laying on the roof? Were they  
9 standing up? What are they doing?

10          A.       They were -- they were just over the top  
11 of the roofline, just -- I could just see the head  
12 and the weapon.

13          Q.       Long rifle?

14          A.       Yes, ma'am.

15          Q.       Both officers?

16          A.       I couldn't tell you the weapon that the  
17 officer had to the right, but I do remember having  
18 lasers. And I remember the officer on the left had  
19 a long rifle, and I remember there were lasers.

20          Q.       How do you know they had lasers?

21          A.       They were on me.

22          Q.       That is the answer I wanted. So they were  
23 on your chest?

24          A.       Yes, ma'am.

25          Q.       Were you standing down on the porch when



1 the laser light hit you?

2 A. I don't recall.

3 Q. So I mean, this is a silly question, but  
4 you are standing there with two officers with  
5 laser-guided weapons pointed at you. Could you  
6 assume they could see you?

7 A. Absolutely.

8 Q. Okay. And whereabouts on your -- so you  
9 said that you are five eleven?

10 A. (Nods head.)

11 Q. So whereabouts on your center of mass were  
12 the lights shining?

13 A. Chest area.

14 Q. Okay. Did the officers that were on the  
15 roof say anything to you?

16 A. No, ma'am.

17 Q. Did the officers down in the BearCat area  
18 say anything to you?

19 A. I recall the directions I was getting were  
20 coming from the BearCat over the loud speaker.  
21 There were no --

22 Q. Could you see the driver of the BearCat?

23 A. No, ma'am.

24 Q. When you were up in your bedroom, did you  
25 see the driver?

1 A. I wasn't --

2 Q. All right. It wasn't important to you?

3 A. No.

4 Q. But you couldn't -- what could you see of  
5 the BearCat from standing down on the porch?

6 A. Honestly, I don't recall.

7 Q. Okay.

8 A. I was more focused on the snipers on the  
9 roof, on the roofline.

10 Q. Did you think the cops were going to shoot  
11 you?

12 A. Hell, yeah. Yeah. I thought I was in  
13 trouble.

14 Q. Okay. And tell me what vehicles were  
15 parked in the driveway that day if you remember.

16 A. Yes. I remember there was -- specifically  
17 there was a fifth wheel, Brian's F350 Ford pickup,  
18 and my Toyota Tacoma.

19 Q. The Tacoma was at the back?

20 A. Yes, ma'am.

21 Q. And do you recall now, as we are trying to  
22 relive this day, whether the BearCat was in your  
23 driveway or next door at that point when you --

24 A. I believe -- I am only speculating. I  
25 don't recall.

1 Q. Okay. All right.

2 A. I believe it was in the next door -- so in  
3 my mind, I believe the BearCat was at the next door  
4 property line, because I recall in the BearCat we  
5 had to go over the fence between the properties in  
6 order to approach the driveway or the front porch.

7 Q. Okay. Could you hear Brian -- stop. Let  
8 me retract that question.

9 Did you close the front door behind you?

10 A. No, ma'am.

11 Q. Left it wide open?

12 A. Yes.

13 Q. Cops are hailing you come down the  
14 driveway. They thought you were Brian Babb.  
15 Correct?

16 A. Yes, ma'am.

17 Q. And you had your hands in the air?

18 A. Yes, ma'am.

19 Q. Anybody tell you any other directions?  
20 Get down on your knees, put your hands behind you,  
21 anything like that?

22 A. No, ma'am.

23 Q. Just come down the driveway?

24 A. Yes, ma'am.

25 Q. And did they arrest -- did they handcuff

1 you?

2 A. No, ma'am.

3 Q. When -- which officer, if you know, first  
4 approached you when you got to the BearCat?

5 A. I couldn't tell you.

6 Q. Did they have their name tags on?

7 A. Oh, my God. That was the last thing I was  
8 looking at.

9 Q. All right. All right. Fair enough. Fair  
10 enough.

11 A. Sorry.

12 Q. When you got to the BearCat, could -- and  
13 I wasn't there, so I have got to reconstruct this --

14 A. I understand.

15 Q. -- to the best of my ability.

16 Were you keeping your eye on these snipers  
17 on the rooftop?

18 A. So to my recollection -- I remember one --  
19 I remember a few things that were vivid in my mind,  
20 and when I was approaching the BearCat with the  
21 officers calling me to the BearCat, for some reason  
22 the guy -- the officer on the left-hand side was  
23 moving off the roofline.

24 Q. Where was he going?

25 A. I have no idea. I just remember him,

1 because I looked over and I remember him coming down  
2 the roof.

3 Q. Getting off the house or moving for better  
4 position?

5 A. I don't know what he was doing. I am not  
6 sure.

7 Q. Okay. Did he say anything to you?

8 A. No, ma'am.

9 Q. The officer on the right say anything to  
10 you?

11 A. The officer on the left-hand side was -- I  
12 could tell you who -- if you put him in a room of  
13 ten people, I could tell you who he was.

14 Q. I know who he was.

15 A. The blond-haired guy.

16 Q. What about the guy on the right? Did  
17 he --

18 A. I didn't have a really good -- I didn't --  
19 I was more focused on my left side, because by the  
20 time I came out of the house, the vehicles kind of  
21 blocked me from that right side. So I was kind of  
22 just off to my left, I believe, if I remember  
23 correctly.

24 Q. When you got to the BearCat, any of the  
25 officers present come out with their weapons drawn

1 on you?

2 A. No, ma'am.

3 Q. And that is when you told them who you  
4 were?

5 A. Yes. I actually was pronouncing my  
6 name -- if that is the right term. I was  
7 pronouncing my name as I exited the residence. If I  
8 wasn't pronouncing my name, I was saying, "I am not  
9 Brian Babb."

10 Q. So it was either "I'm Jim Antonini" or "I  
11 am not Brian Babb"?

12 A. I believe I said, "I am not Brian Babb."  
13 Because they continued to call me Brian Babb as I  
14 was coming out of the residence. "Brian Babb, put  
15 your hands up. Brian Babb, put your hands up." I  
16 just remember --

17 Q. But your hands are up. Right?

18 A. Yes, ma'am.

19 Q. So was Brian calling out any window behind  
20 you? Was he, like, at the window yelling?

21 A. Did you say crawling or calling?

22 Q. Calling.

23 A. No.

24 Q. I'm sorry.

25 A. He was in the living room.

1 Q. How do you know that?

2 A. He was right behind me.

3 Q. When you left the house?

4 A. Yes, ma'am.

5 Q. Had he managed to get the safe open when  
6 you left the house?

7 A. I wasn't -- I didn't stay in the residence  
8 long enough to find out.

9 Q. Okay. Now, I know that you told Mr. Franz  
10 the things that you told the cops when you got to  
11 the BearCat. Were you sitting on the BearCat?  
12 Behind it? Where were you when you were having --

13 A. Inside the BearCat. Stutesman -- the  
14 police officer's leg -- I believe it was Stutesman  
15 in the turret. His legs were like right here. I  
16 was like right here next to the turret, to the  
17 officer in the turret.

18 Q. So you -- so Stutesman was in the turret  
19 while you were sitting in the BearCat. Did he have  
20 his weapon up there with him?

21 A. Yes, ma'am.

22 Q. Did you see any other officers in the  
23 BearCat?

24 A. Yes.

25 Q. How many were there?

1           A.       There was two, the driver and the  
2 passenger. And then there were three officers at  
3 the back of the BearCat.

4           Q.       Did the driver or passenger say anything  
5 to you?

6           A.       Yes, ma'am.

7           Q.       What did they say to you?

8           A.       I could hear Brian Babb on the phone.  
9 They had communication with Brian. I knew there was  
10 some quick connection there between -- I don't  
11 remember the conversation. I don't remember what  
12 was said. I just remember -- well, I asked two  
13 questions. I said, "Is the glass bulletproof?"  
14 Because I was stressed about the fact that there was  
15 going to be some fire exchange. And then -- that  
16 was a dumb question, but I was stressed out.

17                   And then the second question was, "Let me  
18 talk to Brian Babb, please," because I knew that  
19 I -- anyway, "Let me talk to Brian Babb."

20           Q.       But you knew that they had him on the  
21 phone why? Because you could hear his voice?

22           A.       I heard his voice.

23           Q.       Okay. Who was talking to him on the  
24 phone?

25           A.       Please, I don't recall. I honestly went



1 over so many times --

2 Q. Driver or passenger?

3 A. I don't even believe it was anybody in the  
4 BearCat. I think it was maybe the officer in the  
5 back.

6 Q. Okay. Okay.

7 A. I can't recall.

8 Q. Okay. So you have got the driver, the  
9 passenger, and Stutesman. Were there any other  
10 officers in the BearCat when you were in it?

11 A. No, ma'am.

12 Q. Okay. Were there officers behind the  
13 BearCat?

14 A. Yes.

15 Q. How many?

16 A. I believe it was three.

17 Q. Were they saying anything to you?

18 A. They were asking me questions, yes. They  
19 were asking --

20 Q. What kind of --

21 A. They were asking me questions of maybe --  
22 I am sorry. They were asking me questions -- the  
23 questions I remember specifically were layout of the  
24 house, weapons, and then maybe -- I am sorry -- I  
25 say maybe but -- and I don't recall. I guess I

1 thought they asked me about his deposition -- his --  
2 what do you call it? His mood or whatever.

3 Q. Mood? Okay.

4 A. Yeah.

5 Q. Disposition?

6 A. Thank you.

7 Q. Did you ever hear any of them talk about  
8 possibly retreating and withdrawing and just leaving  
9 Brian there?

10 A. Seems like something was said. I can't  
11 recall what. I just can't.

12 Q. Okay. And I think you told Mr. Franz that  
13 at some point you got out of the BearCat and you  
14 were taken to a patrol vehicle?

15 A. Yes, ma'am.

16 Q. How long were you in the BearCat? And I  
17 realize that time is relative when something like  
18 that is going on. Do you remember how long you were  
19 in the BearCat itself?

20 A. Maybe three minutes.

21 Q. Three minutes?

22 A. That is -- that is speculation.

23 Q. That is okay.

24 And then how long --

25 A. Maybe longer than that. I guess there was

1 some time we sat there for a while trying to figure  
2 out what was going on.

3 Q. Okay. And then you get out of the  
4 BearCat, and then you hear shortly after that the  
5 gunshot?

6 A. No.

7 Q. Well, what happened then when you get out  
8 of the BearCat?

9 A. What do you mean? I was in the BearCat  
10 after the shot.

11 Q. Oh, you were in there?

12 A. Stutesman shot him while I was in the  
13 BearCat.

14 Q. Oh, I thought you had been taken out of  
15 the BearCat.

16 A. No, ma'am. They kept me in there.

17 Q. Did you hear anybody say anything before  
18 the shot?

19 A. No. It was the shot -- nobody knew that  
20 Stutesman had shot him. Everybody was guess --  
21 nobody had any idea that Stutesman was the one that  
22 shot. They thought that Brian was the one that  
23 shot.

24 Q. That is what they all say so --

25 A. Yeah.

1 Q. -- let's go back to that moment. Which  
2 way were you facing when the shot went off?

3 A. I was facing to the north, but I had my --  
4 I was sitting like this, the house being here, so I  
5 could -- I kind of turned my body like this to see  
6 the front of the residence.

7 Q. Could you see the front door?

8 A. No, ma'am, not over Brian's truck, I could  
9 not.

10 Q. So this is kind of a really critical point  
11 in time. Let's walk through it.

12 You are sitting there sideways and  
13 Stutesman is standing, what, right behind you?

14 A. No. He is standing right here in my --  
15 his legs are like right here.

16 Q. Okay. And you can see the two officers in  
17 the front seat?

18 A. Correct.

19 Q. Were they looking at you?

20 A. No, ma'am.

21 Q. Where were they looking?

22 A. To the house. To the residence.

23 Q. Did they say anything?

24 A. I just remember them being really relaxed  
25 and like -- I don't think they could see -- here I

1 am speculating, but I don't think they could see the  
2 residence, because I could -- I was on their same  
3 plane of view, and I believe they were looking at  
4 the Ford pickup like I was.

5 Q. And they were real relaxed in your mind?

6 A. Uh-huh.

7 Q. Yeah?

8 A. Uh-huh.

9 Q. When -- so Stutesman shoots. So just bear  
10 with me for a second. Before he shot, in those  
11 seconds leading up to the shot, did the driver or  
12 the passenger say, "Oh, God, there is Babb"? "Gun"?  
13 Anything like that?

14 A. I don't recall.

15 Q. Were they surprised when Stutesman fired?

16 A. Everybody was. That was -- nobody knew  
17 that he had shot.

18 Q. Okay.

19 A. I just remember sitting there and the shot  
20 going off and knowing that Brian had a -- you know,  
21 my speculation was that he had a .300 Win Mag, which  
22 is just horrendous. And like I said, I have been  
23 doing this my whole life, and I knew that the shot  
24 that was fired -- I just remember in my mind that is  
25 not Brian Babb's weapon. I knew what was in the

1 safe. I knew what he had. I knew that the only  
2 rifle he had in the safe was a .300 Win Mag, and the  
3 shot that was fired was not from that gun.

4 Q. Right after the shot, what did they do to  
5 you? What did they do with you?

6 A. Well, everybody was kind of -- we just  
7 kind of -- nobody really knew what had happened, and  
8 there was like maybe 30 to 45 seconds where nobody  
9 said anything and everybody was trying to figure out  
10 what was going on.

11 And then Stutesman -- I remember him  
12 coming down out of the turret and leaning down in  
13 the turret and looking at the back. And he said, "I  
14 was the one that shot. I fired the round."  
15 Everybody thought that it came from Brian's weapon.  
16 I just remember that specifically, like, vivid in my  
17 mind.

18 Q. Can you hear their radios?

19 A. Yes.

20 Q. You can hear the chatter on the radio  
21 between the officers?

22 A. I don't recall.

23 Q. Okay. Okay. There is some testimony that  
24 the officers didn't know who shot and they were  
25 asking each other, "Who shot? Who shot? Everybody

1    okay?"   And then Sergeant McAlpine did an inventory  
2    of every officer to check in with them.   Did you  
3    hear any of that going on?

4           A.       No, ma'am.

5           Q.       Did the driver or the passenger ever talk  
6    about seeing Brian get shot, fall down?

7           A.       I was in shock.   I don't even recall.   I  
8    mean, those -- the things -- that is what I  
9    remember.

10          Q.       Okay.

11          A.       I don't remember -- and then after that, I  
12   was pulled out of the BearCat.

13          Q.       Did you see the -- could you see anything  
14   of the front of the house when you were pulled out  
15   of the BearCat?

16          A.       No, ma'am.

17          Q.       Did you see the BearCat drive up to the  
18   front door?

19          A.       Actually, I was in the BearCat when it  
20   drove up to the front door.

21          Q.       Oh, really?

22          A.       I am sorry.   God damn it.   Yeah.   I'm  
23   sorry.   I was actually in the BearCat when we went  
24   over the fence.

25          Q.       Okay.   You hadn't really remembered that

1 until today?

2 A. No. No. I am sorry. I'm just kind of  
3 like trying to recollect. Because I remember when I  
4 was in the BearCat, they moved to the front of the  
5 door, and then they pulled me out of the BearCat.

6 Q. When they did that, could you see Brian?

7 A. No. Because the truck was in the way. I  
8 couldn't see up over the windshield.

9 Q. All right.

10 A. Like literally, when we got up close, I  
11 think I told the officers to get me out. I am like  
12 "I'm done." Like, "You guys go ahead and pull me,  
13 take me somewhere else." And that is when they  
14 finally pulled me out of the back of the BearCat and  
15 put me in the squad car.

16 Q. Okay. Has any officer approached you to  
17 interview you since that time?

18 A. Well, they interviewed me right after the  
19 incident.

20 Q. Okay.

21 A. And then I think I talked to Dave or Dale  
22 with public affairs --

23 Q. With the --

24 A. -- briefly.

25 Q. -- City of Eugene maybe?



1 A. I think so. Correct.

2 Q. How long ago was that?

3 A. It wasn't a formal interview. It was --  
4 it has been a year and a half or more.

5 Q. Okay. All right. Have you reviewed the  
6 statement that you gave the cops?

7 A. I don't want to listen to it. Yeah. I  
8 tried, but I am like I don't -- yeah. I am --

9 Q. All right.

10 A. Yeah.

11 Q. Did you go to Brian's memorial?

12 A. Yes.

13 Q. Tell me what your feelings were for Brian.  
14 How did you consider him?

15 A. Do I have to?

16 Q. Well, no, you don't have to.

17 A. I don't want to talk about it.

18 Q. Okay. All right.

19 A. He was my best friend. That is all I am  
20 going to say.

21 Q. Do you miss him?

22 A. Of course. Yeah.

23 Q. I appreciate your time. Thank you very  
24 much.

25 A. Yeah. Thank you. Thank you for being

1 kind. No problem.

2 MR. FRANZ: I don't have any more  
3 questions. Thanks for taking time off.

4 THE WITNESS: No problem. Thanks for  
5 seeing me.

6 (The deposition was concluded at  
7 12:15 p.m.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 | State of Oregon )  
 | ) ss.  
 2 | County of Lane )

3 I, Christine Oljace, CSR-RPR, a Certified  
4 Shorthand Reporter for the State of Oregon, certify  
5 that the witness was sworn and the transcript is a  
6 true record of the testimony given by the witness;  
7 that at said time and place I reported by stenotype  
8 all testimony and other oral proceedings had in the  
9 foregoing matter; that the foregoing transcript  
10 consisting of 57 pages contains a full, true and  
11 correct transcript of said proceedings reported by  
12 me to the best of my ability on said date.

13 If any of the parties or the witness requested  
14 review of the transcript at the time of the  
15 proceedings, correction pages are attached.

16           IN WITNESS WHEREOF, I have set my hand this 27th  
17 day of June 2018, in the City of Eugene, County of  
18 Lane, State of Oregon.

19

20

21

Christine L. DeJace

22 | Christine Oljace, CSR-RPR

23	CSR No. 05-0397
----	-----------------

24	Expiration Date: September 30, 2018
----	-------------------------------------

25

1 James Antonini

2 McGowan vs. Stutesman

3 June 13, 2018

4

5 PAGE/LINE.....CHANGE

6 |-----

7 |-----

8 |-----

9 |-----

10 |-----

11 |-----

12 |-----

13 |-----

14 |-----

15 |-----

16 |-----

17

18 I declare under penalty of perjury that the 57  
19 pages referenced above are true and correct except  
20 for such corrections as noted. Executed this .....  
21 day of ..... 2018.

22 |.....|

23 James Antonini

24

25